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9 **BEFORE THE**  
10 **BOARD OF REGISTERED NURSING**  
11 **DEPARTMENT OF CONSUMER AFFAIRS**  
12 **STATE OF CALIFORNIA**

13 In the Matter of the Accusation Against:

Case No. 2009-162

14 **MARTILEE MEHAN MIGASI, AKA**  
15 **MARTILEE MEHAN**  
16 15 Dahlia Way  
17 Chico, CA 95926

**ACUSATION**

18 Registered Nurse License No. 431761

Respondent.

19 Complainant alleges:

**PARTIES**

20 1. Ruth Ann Terry, M.P.H., R.N. ("Complainant") brings this Accusation  
21 solely in her official capacity as the Executive Officer of the Board of Registered Nursing  
22 ("Board"), Department of Consumer Affairs.

23 2. On or about August 31, 1988, the Board of Registered Nursing issued  
24 Registered Nurse License Number 431761 to Martilee Mehan Migasi, also known as Martilee  
25 Mehan ("Respondent"). The license will expire on October 31, 2009, unless renewed.

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STATUTORY PROVISIONS

3. Business and Professions Code ("Code") section 2750 provides, in pertinent part, that the Board may discipline any licensee, including a licensee holding a temporary or an inactive license, for any reason provided in Article 3 (commencing with Code section 2750) of the Nursing Practice Act.

4. Code section 2764 provides, in pertinent part, that the expiration of a license shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the licensee or to render a decision imposing discipline on the license. Under Code section 2811, subdivision (b), the Board may renew an expired license at any time within eight years after the expiration.

5. Code section 2761 states, in pertinent part:

The board may take disciplinary action against a certified or licensed nurse or deny an application for a certificate or license for any of the following:

(a) Unprofessional conduct. . . .

(f) Conviction of a felony or of any offense substantially related to the qualifications, functions and duties of a registered nurse, in which event the record of the conviction shall be conclusive evidence thereof.

6. Code section 2762 states, in pertinent part:

In addition to other acts constituting unprofessional conduct within the meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this chapter to do any of the following:

(a) Obtain or possess in violation of law, or prescribe, or except as directed by a licensed physician and surgeon, dentist, or podiatrist administer to himself or herself, or furnish or administer to another, any controlled substance as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code or any dangerous drug or dangerous device as defined in Section 4022.

(c) Be convicted of a criminal offense involving the prescription, consumption, or self-administration of any of the substances described in subdivisions (a) and (b) of this section, or the possession of, or the falsification of a record pertaining to, the substances described in subdivision (a) of this section, in which event the record of the conviction is conclusive evidence thereof.

(e) Falsify, or make grossly incorrect, grossly inconsistent, or unintelligible entries in any hospital, patient, or other record pertaining to the substances described in subdivision (a) of this section.

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1                   7.     Code section 4022 provides, in pertinent part,  
2                   "Dangerous drug" or "dangerous device" means any drug or device unsafe  
3                   for self-use in humans or animals, and includes the following:

4                   (a)     Any drug that bears the legend: "Caution: federal law prohibits  
5                   dispensing without prescription," "Rx only," or words of similar import.

6                   8.     Code section 4060 provides, in pertinent part,

7                   No person shall possess any controlled substance, except that furnished to  
8                   a person upon the prescription of a physician, dentist, podiatrist, optometrist,  
9                   veterinarian, or naturopathic doctor pursuant to Section 3640.7, or furnished  
10                  pursuant to a drug order issued by a certified nurse-midwife pursuant to Section  
11                  2746.51, a nurse practitioner pursuant to Section 2836.1, a physician assistant  
12                  pursuant to Section 3502.1, a naturopathic doctor pursuant to Section 3640.5, or a  
13                  pharmacist pursuant to either subparagraph (D) of paragraph (4) of, or clause (iv)  
14                  of subparagraph (A) of paragraph (5) of, subdivision (a) of Section 4052.

15                  9.     Health and Safety Code section 11173, subdivision (a), provides:

16                  No person shall obtain or attempt to obtain controlled substances, or  
17                  procure or attempt to procure the administration of or prescription for controlled  
18                  substances, (1) by fraud, deceit, misrepresentation, or subterfuge; or (2) by the  
19                  concealment of a material fact.

### 20                                   COST RECOVERY

21                  10.     Code section 125.3 provides, in pertinent part, that the Board may request  
22                  the administrative law judge to direct a licensee found to have committed a violation or  
23                  violations of the licensing act to pay a sum not to exceed the reasonable costs of the investigation  
24                  and enforcement of the case.

### 25                                   DRUGS

26                  11.     **"Hydomorphone"** or **"Dilaudid"**, a brand name of hydromorphone, is a  
27                  Schedule II controlled substance as designated by Health and Safety Code section 11055,  
28                  subdivision (b)(1)(k), and is a dangerous drug within the meaning of Code section 4022, in that  
29                  under federal law it requires a prescription.

30                  12.     **"Pethidine"/ "Merperidine Hydrochloride"** or **"Demerol"**, a brand  
31                  name of pethidine or merperidine hydrochloride, is a Schedule II controlled substance as  
32                  designated by Health and Safety Code section 11055, subdivision (c)(17), and is a dangerous  
33                  drug within the meaning of Code section 4022, in that under federal law it requires a  
34                  prescription.

13. **"Morphine"** is a Schedule II controlled substance as designated by Health and Safety Code section 11055, subdivision (b)(1)(M), and is a dangerous drug within the meaning of Code section 4022, subdivision (a), in that under federal law it requires a prescription.

14. **"Norco"** is a compound consisting of 5 mg. hydrocodone bitartrate also known as dihydrocodeinone, a Schedule III controlled substance as designated by Health and Safety Code section 11056(e)(4), and 325 mg. acetaminophen per tablet, and is a dangerous drug within the meaning of Code section 4022, in that under federal law it requires a prescription.

(Obtain and Possess Controlled Substances in Violation of Law, and Self-Administer)

15. Respondent's registered nurse license is subject to disciplinary action under Code section 2761, subdivision (a), on the grounds of unprofessional conduct as defined in Code section 2762, subdivision (a), as follows:

**Mercy General Hospital**

Between December 2006 and February 2007, while employed as a registered nurse at Mercy General Hospital ("MGH") in Sacramento, California, Respondent did the following:

a. Respondent obtained Morphine and Norco, controlled substances, by fraud, deceit, misrepresentation or subterfuge, or the concealment of a material fact, in violation of Health and Safety Code section 11173, subdivision (a), by taking the drugs from MGH's hospital supplies for her own personal use.

b. Respondent possessed Morphine and Norco, controlled substances, in violation of Code section 4060.

c. Respondent self-administered Morphine and Norco, controlled substances, without direction from a licensed physician, surgeon, dentist or podiatrist.

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1                   **Oroville Hospital**

2                   Between, but not limited to, July 2008 and September 2008, while working as a  
3 registered nurse at Oroville Hospital in Oroville, California, Respondent did the following:

4                   d. Respondent obtained Demerol, Morphine, and Dilaudid, controlled  
5 substances, by fraud, deceit, misrepresentation or subterfuge, or the concealment of a material  
6 fact, in violation of Health and Safety Code section 11173, subdivision (a), by taking the drugs  
7 from Oroville Hospital's supplies for her own personal use.

8                   e. Respondent possessed Demerol, Morphine, and Dilaudid, controlled  
9 substances, in violation of Code section 4060.

10                  f. Respondent self-administered Demerol, Morphine, and Dilaudid,  
11 controlled substances, without direction from a licensed physician, surgeon, dentist or podiatrist

12                   **SECOND CAUSE FOR DISCIPLINE**

13                  (False, Grossly Inconsistent or Unintelligible Entries in Hospital or Patient Records)

14                  16. Respondent's registered nurse license is subject to disciplinary action  
15 under Code section 2761, subdivision (a), on the grounds of unprofessional conduct, as defined  
16 in Code section 2762, subdivision (e), as follows:

17                   **Mercy General Hospital**

18                  On or about February 8, 2007, while working as a registered nurse at MGH,  
19 Respondent falsified or made grossly incorrect entries in hospital or patient records, including,  
20 but not limited to, the following:

21                   **Patient 1**

22                  a. On or about February 8, 2007, at 0711, 1044, 1351, and 1735 hours,  
23 Respondent signed out 4 mg. of Morphine each time from the Omnicell medication dispenser for  
24 this patient, and failed to chart the administration or wastage of the Morphine in any patient or  
25 hospital record or otherwise account for the disposition of the drug.

26                   **Patient 2**

27                  b. On or about February 8, 2007, at 1513 hours, Respondent signed out 3 tabs  
28 of Norco from the Omnicell medication dispenser for this patient and charted the administration

of 2 tabs at 1500 hours. Respondent failed to chart the administration of the remaining 1 tab of Norco in any patient or hospital record or otherwise account for the disposition of the drug.

**Patient 3**

c. On or about February 8, 2007, at 0759, 1429, and at 1735 hours,

Respondent removed two 4 mg./1 ml. syringes of Morphine each time, and at 1045 and 1222 hours, Respondent signed out one 4 mg./1ml. syringes of Morphine each time from the Omnicell medication dispenser for this patient. Respondent charted the administration of 6 mg. of Morphine at 1420 hours. Respondent charted the administration of Morphine at "1215" but failed to chart the dosage. Respondent failed to chart the administration of the remaining 26 mg. of Morphine in any patient or hospital record or otherwise account for the disposition of the drug.

**Oroville Hospital**

Between September 9, 2008 and September 21, 2008, while working as a registered nurse at Oroville Hospital in Oroville, California, Respondent falsified or made grossly incorrect entries in hospital or patient records, including, but not limited to, the following:

**Patient A**

d. On or about September 19, 2008, Respondent charted the administration of 25 mg. of Demerol each time at 1710, 1020, 1730, and 1740 hours to this patient. The physician's order was for 12.5 mg. prn up to a maximum dose of 100 mg. Respondent failed to administer the dosage as prescribed.

e. On or about September 19, 2008, at 1745 hours, Respondent signed out 10 mg. of Morphine for this patient, but failed to chart the administration or wastage of the Morphine in any patient or hospital record or otherwise account for the disposition of the drug.

**Patient B**

f. On or about September 19, 2008, at 1900 hours, Respondent signed out 50 mg. of Demerol, and at 1915 hours, Respondent signed out 25 mg. of Demerol for this patient. The physician's order was for 25 mg. q 5 minutes up to a maximum dose of 75 mg. Respondent charted the administration of 25 mg. at 1905 hours, 12.5 mg. at 1910 hours, 25 mg. at 1915

1 hours, and 25 mg. at 1920 hours, to this patient, failing to administer the drug as prescribed.  
2 Respondent charted the administration of 87.5 mg. of Demerol to this patient; however, she  
3 documented the withdrawal of only 75 mg. of Demerol for this patient.

4 g. On or about September 19, 2008, at 1930 hours, Respondent signed out  
5 4 mg. of Morphine for this patient, but failed to chart the administration or wastage of the  
6 Morphine in any patient or hospital record or otherwise account for the disposition of the drug.

7 **Patient C**

8 h. On or about September 21, 2008, Respondent charted the administration  
9 of 12.5 mg. of Demerol each time at 0045 hours and 0050 hours, and 25 mg. of Demerol each  
10 time at 0105, 0110, 0115, and 0120 hours to this patient. The physician's order was for 12.5 mg.  
11 prn up to a maximum dose of 100 mg. Respondent failed to administer the drug as prescribed.

12 **Patient D**

13 i. On or about September 18, 2008, at 1630 hours, Respondent signed out 50  
14 mg. of Demerol for this patient. The physician's order was for 12.5 mg. prn up to a maximum  
15 dose of 100 mg. Respondent charted the administration of 25 mg. of Demerol each time at 1610,  
16 1615, 1620, and 1625 hours (prior to its recorded withdrawal), to this patient, failing to  
17 administer the drug as prescribed. Respondent charted the administration of 100 mg. of Demerol  
18 for this patient; however, she documented the withdrawal of only 50 mg. of Demerol for this  
19 patient.

20 j. On or about September 18, 2008, at 1640 hours, Respondent signed out 4  
21 mg. of Morphine for this patient, but failed to chart the administration or wastage of the  
22 Morphine in any patient or hospital record or otherwise account for the disposition of the drug.

23 k. On or about September 18, 2008, at 1650 hours, Respondent signed out 10  
24 mg. of Morphine for this patient, but failed to chart the administration or wastage of the  
25 Morphine in any patient or hospital record or otherwise account for the disposition of the drug.

26 **Patient E**

27 l. On or about September 16, 2008, at 1330, 1340, and 1350 hours,  
28 Respondent signed out 2 mg. of Dilaudid each time. Respondent charted the administration of 1

1 mg. of Dilaudid each time at 1325, 1330, 1335, and 1340 hours, to this patient. Respondent  
2 failed to chart the administration or wastage of the remaining 2 mg. of Dilaudid in any patient or  
3 hospital record or otherwise account for the disposition of the drug.

4 m. On or about September 16, 2008, at 1400 hours, Respondent signed out 4  
5 mg. of Morphine for this patient, but failed to chart the administration or wastage of the  
6 Morphine in any patient or hospital record or otherwise account for the disposition of the drug

7 **Patient F**

8 n. On or about September 9, 2008, Respondent charted the administration of  
9 25 mg. of Demerol each time at 1605 and 1610 hours to this patient. The physician's order was  
10 for 12.5 mg. prn. Respondent failed to administer the drug as prescribed.

11 o. On or about September 9, 2008, at 1645 hours, Respondent signed out 2  
12 mg. of Dilaudid for this patient, without a physician's order. Respondent failed to chart the  
13 administration or wastage of the Dilaudid in any patient or hospital record or otherwise account  
14 for the disposition of the drug

15 **THIRD CAUSE FOR DISCIPLINE**

16 (Prescribe and Administer Controlled Substance)

17 17. Respondent's registered nurse license is subject to disciplinary action  
18 under Code section 2761, subdivision (a), on the grounds of unprofessional conduct as defined in  
19 Code section 2762, subdivision (a), in that between September 9, 2008, and September 21, 2008,  
20 while working as a licensed registered nurse at Oroville Hospital in Oroville, California,  
21 Respondent's administration of dangerous drugs to patients exceeded the physicians' directions  
22 for administration of those drugs, as set forth in paragraph 16, subparagraphs d, f, h, i, and n,  
23 above.

24 **FORTH CAUSE FOR DISCIPLINE**

25 (Conviction)

26 18. Respondent's registered nurse license is subject to discipline under Code  
27 section 2761, subdivision (f), and Code section 2761, subdivision (a), on the grounds of  
28 unprofessional conduct as defined in Code section 2762, subdivision (c), in that on or about,



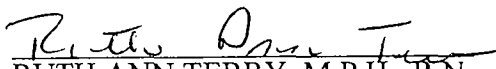
January 5, 2009, in the Superior Court of California, County of Sacramento, in the case entitled, *People of the State of California v. Martilee Migasi* (Super. Ct. Sacramento County, 2008, Case No. 08F05672), Respondent was convicted on her plea of guilty of violating Health and Safety Code section 11173, subd. (a), (obtaining a controlled substance by fraud, deceit, misrepresentation or subterfuge), a felony. The circumstances of the crimes are detailed above in paragraphs 15 and 16. This crime is substantially related to the functions, qualifications, and duties of a registered nurse.

**PRAYER**

**WHEREFORE**, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Revoking or suspending Registered Nurse License Number 431761, issued to Martilee Mehan Migasi, also known as Martilee Mehan;
2. Ordering Martilee Mehan Migasi, also known as Martilee Mehan, to pay the Board of Registered Nursing the reasonable costs of the investigation and enforcement of this case, pursuant to Code section 125.3; and,
3. Taking such other and further action as deemed necessary and proper.

DATED: 1/26/09

  
RUTH ANN TERRY, M.P.H., R.N.  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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